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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1271st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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The meeting was called to order at 10.10 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Draft decision of the Committee on the Democratic Republic of the Congo (CERD/C/52/Misc.32) (document circulated at the meeting in English only)

1. The CHAIRMAN suggested that the Committee should adopt the draft decision on the Democratic Republic of the Congo as it stood subject to a minor spelling correction.

2. The draft decision on the Democratic Republic of the Congo, as orally amended, was adopted.

Draft decision of the Committee on Bosnia and Herzegovina (CERD/C/52/Misc.33/Rev.1) (document circulated at the meeting in French only)

3. Mr. de GOUTTES (Country Rapporteur) read out the draft decision on Bosnia and Herzegovina. He explained that, with the help of Mr. Yutzis and Mr. van Boven, he had endeavoured strictly to reflect the conclusions arrived at by the Committee when considering the situation in Bosnia and Herzegovina.

4. The CHAIRMAN said that the draft lacked firmness and dealt only with procedural matters without dealing with any substantive issue. In his view, it was not enough to say that the Committee would continue to consider the situation in Bosnia and Herzegovina. By adopting the draft as it stood, the Committee would run the risk of weakening the effectiveness of its decisions.

5. Mr. RECHETOV, while recognizing that the draft decision on Bosnia and Herzegovina said little that was new, nevertheless found it satisfactory insofar as it dealt with the relations between the Committee and the Government of Bosnia and Herzegovina. The fact that the Committee noted the absence of a delegation and expressed the hope that the State party would be able to be represented before it, despite its difficulties, was extremely important and touched upon a substantive issue in several respects.

6. Mr. van BOVEN suggested that the Chairman should clearly indicate when he was speaking in a personal capacity, so as to avoid any misunderstanding or confusion. As for the draft decision, even if it did seem to deal principally with procedural matters, its chief aim was to prepare for the next session and it was therefore very important.

7. The CHAIRMAN said that he understood it to be the Committee's wish to adopt the draft decision on Bosnia and Herzegovina as it stood.

8. It was so decided.

9. The draft decision on Bosnia and Herzegovina was adopted without change.

Draft decision on Rwanda (CERD/C/52/Misc.42) (document circulated at the meeting in English only)

10. Mr. BANTON (Country Rapporteur) said that drafting paragraph 4 had not been easy. He had done his best to reconcile the wish of some members of the Committee to give strong expression to their concerns regarding the situation in Rwanda on the one hand, with the need to remain within the scope of the Convention on the other.

11. Mr. SHAHI recalled that during the debate on the situation in Rwanda he had drawn attention to reports appearing in the international press to the effect that a new genocide was in the making in that country. The Committee had requested the Chairman to find out whether those reports were true when he met the High Commissioner for Human Rights. Before expressing his views on the draft decision, he would be interested to hear where the matter stood.

12. The CHAIRMAN asked Mr. Shahi to indicate whether he wanted consideration of the draft decision on Rwanda to be deferred until he had obtained the necessary information.

13. Mr. SHAHI said that, if there was no clear information on the situation in Rwanda, he would be obliged to abstain.

14. Mr. SHERIFIS confirmed that he had been in the Chair when the Committee had decided to request the High Commissioner for Human Rights, on the occasion of her meeting with the Chairman of the Committee, to shed some light on the situation in Rwanda.

15. For his part, he was on the whole satisfied with the draft decision on Rwanda. He was, however, a little surprised by the strong wording of the sentence: "It regretted that the State party had not accepted its invitation to attend and furnish up-to-date information", considering that in the draft on Bosnia and Herzegovina the Committee had not gone beyond "noting the absence of a delegation". He reminded the Committee of the need to maintain a certain consistency in its decisions so as to ensure that all States parties were treated equally.

16. Mr. YUTZIS said that, before stating his views, he would like to know whether Mr. Shahi intended to propose adding a paragraph or a statement to the draft decision on Rwanda reflecting his concerns.

17. Mr. SHAHI said that he might propose the addition of a passage referring to information predicting renewed massive violations of human rights, or even an actual genocide in Rwanda, if he did not think it was preferable first to obtain more details about the precise situation in the country. He therefore wondered whether the Chairman expected to obtain the necessary information at the meeting he was to have that afternoon with the High Commissioner for Human Rights.

18. The CHAIRMAN said that his meeting with the High Commissioner would be too brief to enable him to raise questions as specific as those Mr. Shahi had in mind.

19. Recognizing the validity of Mr. Sherifis' remark concerning the need to maintain a certain consistency in the Committee's decisions, he proposed that the same wording should be used for Rwanda as for Bosnia and Herzegovina. The Committee might perhaps take a decision on those two points at the afternoon meeting.

20. Mr. GARVALOV, supported by Mr. YUTZIS, asked whether that meant that the Committee was adopting the draft decision as it stood, except for the two points raised by Mr. Shahi and Mr. Sherifis.

21. The CHAIRMAN replied that it was not possible to adopt the draft for the time being for technical reasons, such as the numbering of paragraphs. It was understood, however, that the discussion at the afternoon meeting would be restricted to paragraph 4.

22. Mr. BANTON, supported by Mr. SHERIFIS, proposed that the sentence in paragraph 3 that read: "It regretted that the State party had not accepted its invitation to attend and furnish up-to-date information" should be replaced by: "It noted that the State party had not attended the session".

23. The CHAIRMAN said that the Committee would continue its consideration of paragraph 4 at its afternoon meeting.

Draft decision on Papua New Guinea (CERD/C/52/Misc.34/Rev.1) (document circulated at the meeting in English only)

Paragraphs 1 and 2

24. Paragraphs 1 and 2 were adopted.

Paragraph 3

25. Mr. GARVALOV (Country Rapporteur) said that the word "apprised" should be replaced by the word "informed".

26. Paragraph 3, as amended, was adopted.

Paragraphs 4-7

27. Paragraphs 4-7 were adopted.

28. The draft decision on Papua New Guinea, as orally amended, was adopted.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations on the sixth to thirteenth periodic report of Lebanon (CERD/C/52/Misc.37, Future CERD/C/304/Add.49) (document circulated at the meeting in English only)

Paragraphs 1-3

29. Paragraphs 1-3 were adopted.

Paragraph 4

30. Following an exchange of views between Mr. Garvalov (Country Rapporteur) and Mr. Sherifis, it was decided to replace the words "military incursions" by "military invasions".

31. Paragraph 4, as amended, was adopted.

Paragraphs 5-8

32. Paragraphs 5-8 were adopted.

Paragraph 9

33. Mr. DIACONU asked Mr. Garvalov whether the words "legal definition" related to ethnic groups or to racial discrimination.

34. Mr. GARVALOV explained that "legal definition" referred to "ethnic groups", racial discrimination being already defined in the Convention.

35. The CHAIRMAN suggested that the paragraph should read as follows: "Concern is expressed at the insufficiency of the legal definition of ethnic groups and protection given to them in domestic law".

36. It was so decided.

37. Paragraph 9, as amended, was adopted.

Paragraph 10

38. Paragraph 10 was adopted.

Paragraph 11

39. Mr. GARVALOV proposed deleting the last sentence of paragraph 11.

40. Paragraph 11, as amended, was adopted.

Paragraphs 12 and 13

41. Paragraphs 12 and 13 were adopted.

Paragraph 14

42. Mr. DIACONU proposed that the words "the enjoyment of" should be inserted in the first line after the words "with regard to".

43. Mr. SHERIFIS proposed that the words "displaced persons," should be included after "ethnic groups,".

44. Paragraph 14, as amended by Mr. Diaconu and Mr. Sherifis, was adopted.

Paragraphs 15 and 16

45. Paragraphs 15 and 16 were adopted.

Paragraph 17

46. Mr. GARVALOV suggested that in order to make it quite clear that the State party was required to fulfil certain obligations under article 7, the paragraph should be rephrased so as to begin with the words "In the light of article 7, there are insufficient measures and programmes ...".

47. Mr. SHERIFIS thought that paragraph 57 of the report of the State party (CERD/C/298/Add.2) had explained the insufficiency perfectly acceptably and that the Committee should acknowledge the fact before saying it was not satisfied.

48. Mr. GARVALOV proposed the following wording: "Although recognizing the validity of the arguments advanced by the State party, the Committee nevertheless notes that there are insufficiencies in measures and programmes ...".

49. Paragraph 17, as amended, was adopted.

Paragraphs 18-25

50. Paragraphs 18 to 25 were adopted.

Paragraph 26

51. In response to the CHAIRMAN's question concerning the country's "major" languages, Mr. GARVALOV said that since the entire population of Lebanon spoke Arabic, the third line of the paragraph was unnecessary and could be deleted.

52. Paragraph 26, as amended, was adopted.

Paragraphs 27 and 28

53. Paragraphs 27 and 28 were adopted.

Paragraph 29

54. Mr. GARVALOV said that he would not object to replacing the word "comprehensive" with the word "updated" if that was what the Committee wished, although it seemed to him that a simple updating was not enough, given the meagreness of the report submitted by the State party after 16 years of silence.

55. Mr. SHERIFIS said that the wording of the paragraph should be left unchanged since it was a full report that the Committee needed.

56. Paragraph 29 was adopted unchanged.

57. The draft concluding observations on the sixth to thirteenth periodic report of Lebanon, as orally amended, were adopted.

58. Mr. Yutzis took the Chair.

Draft concluding observations on the seventh to ninth periodic report of Israel (CERD/C/52/Misc.29) (document circulated at the meeting in English only)

Paragraph 1

59. Paragraph 1 was adopted.

Paragraph 2

60. Paragraph 2 was adopted, subject to the correction of a typing error in the first line.

Paragraphs 3 and 4

61. Paragraphs 3 and 4 were adopted.

Paragraph 5

62. Mr. GARVALOV said that the paragraph was incomplete insofar as it made no mention of the responsibility incumbent on the State party to implement the Convention in all the territories under its jurisdiction.

63. Mr. RECHETOV thought the Committee should express satisfaction at the establishment of a Palestinian Authority.

64. Mr. VALENCIA RODRIGUEZ, supported by Mr. SHERIFIS, said that the Committee could hardly express satisfaction in a part of its concluding observations dealing with impediments to the implementation of the Convention.

65. Mr. de GOUTTES proposed that the two sentences of the paragraph should be split into two paragraphs.

66. Mr. RECHETOV pointed out that the paragraph was contradictory, insofar as immediately after noting with regret the stalemate in the peace process, the Committee took note of a measure which could only contribute to the implementation of the Convention.

67. Mr. de GOUTTES, supported by Mrs. ZOU, said the problem was due to the fact that paragraph 5 appeared in the part of the observations dealing with impediments to the implementation of the Convention. The whole section could simply be deleted, the first sentence of paragraph 5 becoming the beginning of part E and the second sentence the beginning of part D.

68. Mr. ABOUL-NASR, supported by Mr. van BOVEN, Mr. NOBEL and Mr. SHAHI, while sharing the view that part B should be deleted, suggested that paragraph 5 should be kept as it was and placed in the introduction of the concluding observations.

69. Mr. GARVALOV, supported by Mr. RECHETOV, proposed a more neutral formulation, whereby the Committee would state that it was aware of the stalemate in the peace process, aware of the establishment of the Palestinian Authority, but also aware of the State party's responsibility.

70. Mr. BANTON (Country Rapporteur) proposed that the Committee should not only delete part B but should split paragraph 5 into two separate paragraphs, numbered 5 and 5 (a).

71. Mr. de GOUTTES further suggested that the two paragraphs created in that way should become new paragraphs 5 and 6 placed in the Introduction, the following paragraphs then being renumbered.

72. Mr. GARVALOV, supported by Mr. SHAHI, said that, with the new paragraph 6, the Committee appeared to be holding the Palestinian Authority responsible for the implementation of the Convention in the Occupied Territories, which was hardly acceptable. He proposed that the phrase "which has certain responsibilities in some of the Occupied Territories" should be deleted from the future paragraph 6.

73. Mr. NOBEL suggested that replacing the word "some" at the end of the paragraph by the word "parts" would reflect the facts more accurately.

74. Mr. de GOUTTES, supported by Mr. van BOVEN, said that it was not enough simply to note the establishment of a Palestinian Authority. If the Committee decided to delete the end of the sentence, it would have to add something to make the statement meaningful.

75. Mr. BANTON proposed that the second sentence of paragraph 5 should be kept as it was as a new paragraph 6, the word "also" being deleted and the word "some" being replaced by "parts".

76. Paragraph 5, as amended, was adopted.

Paragraph 6

77. Mr. RECHETOV said that the word "Kahana" was misspelt and should be written "Kahane".

78. Paragraph 6, as amended, was adopted.

Paragraph 7

79. Paragraph 7 was adopted.

Paragraph 8

80. Paragraph 8 was adopted.

Paragraph 9

81. Mr. RECHETOV, supported by Mr. NOBEL, proposed that paragraph 9 should be amended to emphasize the fact that changing the demographic composition of

the Occupied Territories was forbidden under international law. He referred in particular to article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949. He proposed the following text: "The Committee reiterates its view that the Israeli settlements in the Occupied Territories are not only illegal under contemporary international law, as attempts to change the demographic composition, but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin."

82. Mr. BANTON said that questions of that kind should really be worked out at the preliminary meetings held to reach agreement on the draft concluding observations.

83. Mr. van BOVEN, supported by Mr. de GOUTTES, said that, from a legal point of view, he agreed with Mr. Rechetov, but that the Committee should retain the proposed wording, because it seemed clearer.

84. Mr. BANTON suggested that the word "contemporary" should be inserted before "international law", that the words "Actions that" should be replaced by "Actempts to" and that the word "international" should be inserted before "humanitarian law".

85. The CHAIRMAN read out the following text of paragraph 9 as amended: "The Committee reiterates its view that the Israeli settlements in the Occupied Territories are not only illegal under contemporary international law, but are an obstacle to peace and to the enjoyment of human rights by the whole population in the region, without distinction as to national or ethnic origin. Attempts to change the demographic composition of the Occupied Territories evoke concern as violations of contemporary international humanitarian law."

86. Paragraph 9, as amended, was adopted.

Paragraph 10

87. Mr. DIACONU suggested that the word "accordingly" should be inserted at the beginning of the paragraph in order to emphasize the link between paragraphs 9 and 10.

88. Paragraph 10, as amended, was adopted.

Paragraph 11

89. After an exchange of views in which Mr. Rechetov, Mr. Banton, Mr. Shahi and Mrs. Zou took part, paragraph 11 was adopted without change.

Paragraph 12

90. Paragraph 12 was adopted.

Paragraph 13

91. Mr. DIACONU said that the phrase "if the State party is to meet" did not convey the impression that the State party had a duty to meet the provisions of article 5 of the Convention.

92. Mr. BANTON suggested that the problem might be solved by replacing the word "if" by "for" and deleting the word "is".

93. Paragraph 13, as amended, was adopted.

Paragraph 14

94. Mr. DIACONU said that the State party had indicated that it was about to adopt new labour legislation applicable to all, including Palestinians and foreign workers. The Committee should encourage it to do so. He therefore proposed that the last sentence should begin: "The Committee encourages the State party to adopt a new labour legislation in order to secure protection against ...".

95. Paragraph 14, as amended, was adopted.

Paragraphs 15-17

96. Paragraphs 15-17 were adopted.

Paragraph 18

97. Mr. van BOVEN said that the order of paragraphs 18-22 was confusing.

98. Mr. DIACONU, supported by Mr. BANTON and Mr. de GOUTTES, suggested that the last sentence should be deleted and that paragraph 18 should follow paragraph 22, as the two texts were connected.

99. Paragraph 18, as amended, was adopted.

Paragraph 19

100. Mr. van BOVEN suggested that the words "next periodic" should be inserted before "report" and that the word "systematic" should be replaced by "comprehensive".

101. Paragraph 19, as amended, was adopted.

Paragraph 20

102. Mr. SHAHI said that the meaning of the paragraph was not very clear. It gave the impression that the State party was perfectly justified in according different treatment to individuals on grounds of public security, ethnic origin or again religion, and that the grounds had simply to be distinguished.

103. Mr. BANTON explained that the Committee should engage in a dialogue on the subject precisely in order to determine whether the grounds invoked by the

State party actually justified the different treatment which took place. The Committee might be able to ascertain, for example, that Israel was not using terrorism as an excuse for practising discrimination based on national or ethnic origin.

104. Mr. ABOUL-NASR observed that the word "discrimination" which Mr. Banton had just used was exactly the one which should appear in the paragraph, which did not seem to him to be strong enough.

105. Mr. BANTON said that in drafting the paragraph he had used the terminology of English law, but would delete the paragraph if it caused any problem.

106. Mr. RECHETOV said that the paragraph was important and should be retained, but be worded differently.

107. Mr. de GOUTTES saw no difficulty in the deletion of paragraph 20. However, if it was retained, he too thought it should be worded more strongly. For example, instead of saying that it would wish to engage in a dialogue, the Committee might "ask for explanations" on the subject from the State party.

108. Mr. SHERIFIS said that, as it stood, the paragraph was neither an expression of concern nor a recommendation concerning the inequality of treatment mentioned, and it might just as well be deleted. However, if it was decided to retain the paragraph, was it necessary to include religion among the grounds for inequality of treatment? The State party might argue that that matter did not fall within the Committee's competence.

109. Mr. NOBEL endorsed Mr. Sherifis' comment on religion. The rest of the paragraph seemed to him to be drafted courteously but very clearly and to the point.

110. The CHAIRMAN, summing up the discussion, said that the Committee had two options: it could either delete paragraph 20 entirely or redraft it. He suggested that Mr. Banton should prepare a new version in collaboration with those members of the Committee who had requested changes. In the meantime the Committee might proceed to paragraph 21.

111. It was so decided.

Paragraph 21

112. Mr. ABOUL-NASR said that the second sentence of the paragraph, in which the Committee asked for other information about any inequalities in the administration of criminal justice, was somewhat inappropriate. The recent decision by Israel's Supreme Court which was tantamount to justifying the use of torture seemed to him to be information enough. The Committee would have noted that the Israeli delegation had not come forward with a denial on that point. The Committee might at least express its concern in that connection.

113. Mr. BANTON explained that the other information requested by the Committee in that paragraph was intended to clarify certain points concerning the treatment of litigants and had nothing to do with the decision of the

Supreme Court, about which he was prepared to draft another paragraph. However, the matter was under consideration by the Committee against Torture and it might be wise to await its report.

114. Mr. RECHETOV said that the Committee could not simply await the conclusions reached by the Committee against Torture. It was up to the Committee, under article 5 (b) of the Convention, to defend the right of everyone to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

115. Mr. de GOUTTES, Mrs. McDOUGALL, Mr. ABOUL-NASR and Mr. NOBEL said that they were in favour of the addition of a new paragraph dealing with Israel's justification for the use of torture.

116. The CHAIRMAN asked Mr. Banton to draft a text; he proposed that in the meantime paragraph 21 should be left in abeyance, as it had failed to secure unanimous agreement despite the explanations provided, and that the Committee should proceed directly to paragraph 22.

117. It was so decided.

Paragraph 22

118. Paragraph 22 was adopted.

119. Mr. DIACONU reminded the Committee that paragraph 18 had to be inserted between paragraphs 22 and 23.

120. The CHAIRMAN said that would be done.

Paragraphs 23 and 24

121. Paragraphs 23 and 24 were adopted.

122. Mr. SHAHI pointed out that the text before the Committee contained no recommendation on the publication and dissemination in Israel of the State party's report and the Committee's concluding observations.

123. Mr. BANTON explained that that had been thought unnecessary since the Israeli delegation provided oral assurances on the subject.

The meeting rose at 1.05 p.m.